

### REMARKS

This Amendment and Response are filed in reply to the Office Action dated July 18, 2003. In this Response, Applicant amends claims 1, 2, 4, 9, 11, 13-15, 17-18, 24-30, and 34-40 to correct antecedent basis and form issues. Applicant also cancels claims 41-43, without prejudice. Support for the amendments can be found throughout the originally filed disclosure. Cancellations of and/or amendments to the claims are not an acquiescence to any of the rejections. Furthermore, silence with regard to any of the Examiner's rejections is not an acquiescence to such rejections. Specifically, silence with regard to Examiner's rejection of a dependent claim, when such claim depends from an independent claim that Applicant considers allowable for reasons provided herein, is not an acquiescence to such rejection of the dependent claim(s), but rather a recognition by Applicant that such previously lodged rejection is moot based on Applicant's remarks and/or amendments relative to the independent claim (that Applicant considers allowable) from which the dependent claim(s) depends. Furthermore, any cancellations of and amendments to the claims are being made solely to expedite prosecution of the instant application. Applicant reserves the option to further prosecute the same or similar claims in the instant or a subsequent application. Upon entry of the Amendment, claims 1-40 are pending in the present application.

The issues of the July 18, 2003 Office Action are presented below with reference to the Office Action.

With regard to the Office Action, paragraph 1: Applicant thanks the Examiner for the comments regarding the claim of priority. As Examiner notes, the application papers, as filed, properly stated a claim of priority within the specified time limit under 37 CFR 1.78. Further, Applicant notes Examiner's recognition of Page 34, lines 16-21, as originally filed, in which the Applicant clearly and additionally states the claim of priority:

A number of references are cited herein, the entire disclosures of which are incorporated herein, in their entirety, by reference for all purposes. Additionally, U.S. Provisional Patent Application serial No. 60/187,889, filed Mar. 8, 2000, to which this application claims priority, is also incorporated herein, in its entirety, by reference for all purposes. Further, none of these references, regardless of how characterized above, is admitted as prior to the invention of the subject matter claimed herein.

Applicant thus, in accordance with 35 U.S.C. 120, amends the first line of the specification to include the reference previously timely provided within the time limits established by 37 CFR 1.78.

With regard to the Office Action, paragraph 2: Applicant thanks the Examiner for the notation regarding IDS. Applicant provides a PTO-1449 listing the references cited in the Applicant's disclosure. A complete IDS submission by express mail is forthcoming separately.

With regard to the Office Action, paragraph 3, sub-sections (a)-(o): Applicant thanks the Examiner for the careful reading of the specification, and Applicant provides herein corrections as provided by the Examiner, with the exception of item (d), which Applicant considers unnecessary and merely a stylistic issue.

With regard to the Office Action, paragraph 4: Applicant responded to Examiner's request that the independent claims be rewritten, and accordingly, Applicant amends independent claims 38-40, and cancels claims 41-43.

With regard to the Office Action, paragraph 5: Examiner rejected claims 1-43 based on 35 U.S.C. 103(a) and a combination of references known as Keane (U.S. 5,737,581), Summers (U.S. 6,408,263) and "Genetic Algorithms: A Survey," referred to as "GA." Although Applicant truly appreciates the thoroughness with which the Examiner presented the subject Office Action, including citations to the references, Applicant respectfully disagrees with the Examiner's interpretation of the prior art, particularly as applied to Applicant's independent claims.

On page 9 of the present Office Action, the Examiner states that "Keane does not show the following features, however, Summers teaches the same..." with reference to item (d) of Applicant's independent claim 1. Although Applicant agrees with the Examiner that Keane does not teach any portion of Applicant's independent claim 1, feature (d), Applicant disagrees that such feature (d) is taught by Summers.

The Examiner cites Summers, column 20, lines 41-42 and 45-62 in rejecting Applicant's independent claim 1, feature (d), and states "cited 'genetic algorithm' infers claimed 'evolutionary method'." Applicant respectfully disagrees with this interpretation, for it is the claimed words modified by "evolutionary method" that must be examined, not merely the words in isolation. Genetic algorithms can be used in various manners, and not all instances include evolutionary methods in the manner claimed by Applicant.

With reference to Summers, column 20, Applicant directs the Examiner to lines 36-39, where Summers teaches that "Before a learning lesson can begin, the computer must *initialize* the learning session. To accomplish this, it performs the following steps: ...computer simulates a round of sales and places the results in a database....the design restrainer restricts the domains of one or more product attributes so that students can only design products of sufficiently low value. To do this, the computer *searches* randomly (or with an algorithm such as a genetic algorithm) for a product of sufficiently low value." Accordingly, the reference to "genetic algorithm" in Summers is merely as a tool for searching, to populate a database to initialize the learning session. Once again, this is a well-known use of a genetic algorithm that is not the same as Applicant's claimed "*generating a plurality of business models from the simulated plurality of business models by performing an evolutionary method including (i) determining business model fitness in dependence on the operational business-model performances, (ii) selecting one or more business models in dependence on their fitness, and (iii) transforming the selected business models into new business models...*" The Examiner admits that element (iii) is not satisfied by Summers (see Office Action, page 10), however, neither is any other part of feature (d). Summers' teaching of a searching methodology using a genetic algorithm is completely different from Applicant's claimed generation of a business model, determination of fitness *in dependence on operation business-model performances*, and selection based on fitness.

As Examiner knows, and based at least on MPEP 2143, a prima facie case of obviousness under 35 U.S.C. 103(a) requires (1) a suggestion or motivation in the references themselves or generally known in the art, to combine the references, (2) a reasonable expectation of success to combine, and (3) a teaching, via the combination, of all the claimed limitations. Applicant submits herein that the Examiner fails to provide a prima facie case of obviousness, as all three of the aforementioned elements fail to be satisfied in the present case.

First, Examiner does not show where the motivation resides in the references, or in the generally available art, to modify Summers as taught by GA, and further, to modify Keane with the modified Summers. Further, as provided previously herein, Summers merely teaches a genetic algorithm for performing a search. It is unclear as to how Summers' modified (via GA) searching technique could be incorporated into Keane's quality system simulator to provide feature (d) of Applicant's independent claim 1. The Examiner fails to show the motivation for such modification, fails to show that such combination would satisfy all features of Applicant's

independent claim 1, and further fails to indicate that such modification could be successfully implemented. Accordingly, the Examiner fails to provide a prima facie case of obviousness under 35 U.S.C. 103(a).

Applicant thus traverse the Examiner's 35 U.S.C. 103(a) rejection, and considers independent claim 1 to be allowable. Claims 2-14 depend from allowable independent claim 1, and hence Applicant traverses the Examiner's rejections of such dependent claims and considers such claims to also be allowable as depending from an allowable base claim.

Applicant's independent claim 15 includes a feature (d) that includes *generating a next plurality of business models from the simulated plurality of business models by performing an evolutionary method, wherein the evolutionary method uses a fitness depending upon the operational business-model performances and applies genetic operators to the building-blocks of the business models.* On page 17 of the present Office Action, the Examiner refers to the Examiner's rejection of independent claim 1 in rejecting feature (d) of independent claim 15. As indicated with respect to independent claim 1, none of the cited references teaches the use evolutionary algorithms in the manner claimed by the Applicant in independent claim 15, and accordingly, for the same reasons indicated with respect to allowable independent claim 1, the Examiner fails to satisfy a prima facie showing of obviousness under 35 U.S.C. 103(a). Applicant thus traverses the Examiner's 35 U.S.C. 103(a) rejection of independent claim 15, and considers independent claim 15 to be allowable. Because claims 16-27 depend from allowable independent claim 15, Applicant also traverses the Examiner's rejections of the same, and considers such dependent claims to be allowable as depending upon an allowable base claim.

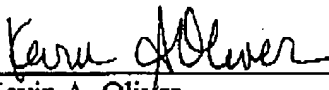
Independent claims 28 and 34-40 include features common to the aforementioned allowable features of allowable independent claims 1 and 15, and accordingly, Applicant traverses the Examiner's 35 U.S.C. 103(a) rejection of such independent claims 28 and 34-40, and considers independent claims 28 and 34-40 to be allowable. Because claims 29-33 depend from allowable independent claim 28, Applicant also traverses the Examiner's rejection of the same, and considers such dependent claims to be allowable as depending from an allowable base claim.

**CONCLUSION**

Applicant considers the Response herein to be fully responsive to the referenced Office Action. Based on the above Remarks, it is respectfully submitted that this application is in condition for allowance. Accordingly, allowance is requested. If there are any remaining issues or the Examiner believes that a telephone conversation with Applicant's attorney would be helpful in expediting the prosecution of this application, the Examiner is invited to call the undersigned at 617-832-1241.

Respectfully submitted,

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